

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Edward Tsigel	Team: Squad #17	CCRB Case #: 202206453	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 09/15/2022 11:12 PM	Location of Incident: Front of § 87(2)(b)	18 Mo. SOL 3/15/2024	Precinct: 47		
Date/Time CV Reported Thu, 09/15/2022 11:40 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 09/26/2022 8:48 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. PO John Avellino	26918	958273	NARCBMN
2. DT3 Richard Mcknight	04984	955170	NARCBMN
3. DT3 Edmundo Rivera	03226	955382	NARCBMN

Officer(s)	Allegation	Investigator Recommendation
A . PO John Avellino	Abuse: Police Officer John Avellino stopped § 87(2)(b)	§ 87(2)(b)
B . DT3 Richard Mcknight	Abuse: Detective Richard Mcknight stopped § 87(2)(b)	§ 87(2)(b)
C . DT3 Edmundo Rivera	Abuse: Detective Edmundo Rivera stopped § 87(2)(b)	§ 87(2)(b)
D . DT3 Edmundo Rivera	Abuse: Detective Edmundo Rivera frisked § 87(2)(b)	§ 87(2)(b)
E . DT3 Edmundo Rivera	Abuse: Detective Edmundo Rivera searched § 87(2)(b)	§ 87(2)(b)
F . PO John Avellino	Abuse: Police Officer John Avellino failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
G . DT3 Richard Mcknight	Abuse: Detective Richard Mcknight failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
H . DT3 Edmundo Rivera	Abuse: Detective Edmundo Rivera failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
I . PO John Avellino	Abuse: Police Officer John Avellino refused to provide his name to § 87(2)(b)	§ 87(2)(b)
J . PO John Avellino	Abuse: Police Officer John Avellino refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)
K . DT3 Richard Mcknight	Abuse: Detective Richard Mcknight refused to provide his name to § 87(2)(b)	§ 87(2)(b)
L . DT3 Richard Mcknight	Abuse: Detective Richard Mcknight refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)
M . DT3 Edmundo Rivera	Abuse: Detective Edmundo Rivera refused to provide his name to § 87(2)(b)	§ 87(2)(b)
N . DT3 Edmundo Rivera	Abuse: Detective Edmundo Rivera refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		

Case Summary

On September 15, 2022, § 87(2)(b) called the IAB and filed this complaint on behalf of herself and § 87(2)(b). The CCRB received this case on September 26, 2022, via IAB log #§ 87(2)(b).

On September 15, 2022, at 11:12 PM, § 87(2)(b) and § 87(2)(b) were walking in front of § 87(2)(b) in the Bronx, when Police Officer John Avellino, Detective Richard Mcknight, and Detective Edmundo Rivera, all of Narcotics Boro Manhattan North, stopped § 87(2)(b) (Allegations A to C - Abuse of Authority - § 87(2)(g) Det. Rivera frisked and searched § 87(2)(b) (Allegations D and E - Abuse of Authority - § 87(2)(g) PO Avellino, Det. Mcknight, and Det. Rivera failed to provide § 87(2)(b) with a business card (Allegations F to H - Abuse of Authority - § 87(2)(g) PO Avellino, Det. Mcknight, and Det. Rivera refused to provide their names and shield numbers to § 87(2)(b) upon her request (Allegations I to N - Abuse of Authority - § 87(2)(g) § 87(2)(g), § 87(4-b)

There was no arrest made or summons issued as a result of this incident.

There is no available video evidence of this incident.

This case was originally assigned to Investigator David Wall and was reassigned to Supervising Investigator Edward Tsigel.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer John Avellino stopped § 87(2)(b)

Allegation (B) Abuse of Authority: Detective Richard Mcknight stopped § 87(2)(b)

Allegation (C) Abuse of Authority: Detective Edmundo Rivera stopped § 87(2)(b)

Allegation (D) Abuse of Authority: Detective Edmundo Rivera frisked § 87(2)(b)

Allegation (E) Abuse of Authority: Detective Edmundo Rivera searched § 87(2)(b)

Allegation (F) Abuse of Authority: Police Officer John Avellino failed to provide § 87(2)(b)

§ 87(2)(b) with a business card.

Allegation (G) Abuse of Authority: Detective Richard Mcknight failed to provide § 87(2)(b)

§ 87(2)(b) with a business card.

Allegation (H) Abuse of Authority: Detective Edmundo Rivera failed to provide § 87(2)(b)

§ 87(2)(b) with a business card.

Allegation (I) Abuse of Authority: Police Officer John Avellino refused to provide his name to § 87(2)(b)

Allegation (J) Abuse of Authority: Police Officer John Avellino refused to provide his shield

number to § 87(2)(b)

Allegation (K) Abuse of Authority: Detective Richard Mcknight refused to provide his name

to § 87(2)(b)

Allegation (L) Abuse of Authority: Detective Richard Mcknight refused to provide his shield

number to § 87(2)(b)

Allegation (M) Abuse of Authority: Detective Edmundo Rivera refused to provide his name to § 87(2)(b)

Allegation (N) Abuse of Authority: Detective Edmundo Rivera refused to provide his shield

number to § 87(2)(b)

§ 87(2)(b) (BR 01) and § 87(2)(b) (BR 02) stated that they were walking eastward on East 232nd Street toward their parked vehicle. § 87(2)(b) was wearing a hoodie but did not specify any other clothing or what he had in his pockets. At approximately 11:15 PM, they reached § 87(2)(b) and an unmarked black pickup truck with license plate § 87(2)(g) specifically provided by § 87(2)(b) during his interview, pulled up beside § 87(2)(b) as § 87(2)(b) walked up to ten steps behind him. Three uniformed Hispanic male officers who wore bullet proof vests exited the pickup truck, approached § 87(2)(b) and stopped him. Det. Rivera, described as

the “shortest officer” on scene, immediately frisked § 87(2)(b) and searched all of his pockets without his consent. The officers told § 87(2)(b) that they stopped him because he was being suspicious by walking far apart from § 87(2)(b). § 87(2)(b) asked all of the officers for their names and shield numbers, and they all left without providing them to her. The officers did not provide their business cards to § 87(2)(b) and § 87(2)(b) did not state how long the incident lasted. § 87(2)(b) stated that one of the two taller officers had “tribal tattoos.” He did not specify where the tattoos were on the officer’s person.

The Narcotics Boro Manhattan North Unmarked Vehicle Utilization Log (BR 03) lists a black ford pickup truck with license plate § 87(2)(g) as a vehicle belonging to the command (page 1). It lists PO Avellino, Det. Mcknight, and Det. Rivera as being assigned to the pickup truck on September 15, 2022, and they left the command at 4:00 PM and drove to the 47th Precinct in the Bronx for an enhanced deployment detail (page 2).

The Automatic Vehicle Locator (AVL) History (BR 04) for the black pickup truck on September 15, 2022, shows that the officers stopped their vehicle directly in front of § 87(2)(b) for approximately two minutes between 11:12 PM and 11:14 PM (page 5) and then continued driving afterward.

PO Avellino (BR 05), Det. Mcknight (BR 06), and Det. Rivera (BR 07), all confirmed that on September 15, 2022, they were assigned to an enhanced deployment detail within the 47th Precinct. Their responsibilities were to patrol the entirety of the precinct in the unmarked black pickup truck. None of them remembered being involved in this incident or any incident in which they stopped, frisked, or searched any individuals. They were not familiar with § 87(2)(b) and did not remember why they stopped there for two minutes at 11:12 PM. They were unfamiliar with § 87(2)(b) or § 87(2)(b). PO Avellino did not remember what he wore that day. Det. Mcknight and Det. Rivera stated that they wore uniforms with bullet proof vests. Det. Mcknight and Det. Rivera stated that they had tattoos on their arms, however they denied that any of the tattoos were “tribal.” Det. Rivera was shown the vehicle utilization log (BR 03) during his CCRB interview, and he confirmed that he made the entry on September 15, 2022, and it was in his handwriting (page 2).

PO Avellino’s MOS photo (BR 08) lists him as being a 5’9” white male. Det. Mcknight’s MOS photo (BR 09) lists him as being a 6’3” white male. Det. Rivera’s MOS photo (BR 10) lists him as being a 5’6” Hispanic male.

The CCRB received negative results for BWC footage (BR 11) or a stop report (BR 12) prepared for this incident.

Patrol Guide Procedure 212-11 (BR 13) states that a Terry stop/level 3 encounter is any encounter between a civilian and a uniformed member of service in which a reasonable person would not feel free to disregard the officer and walk away. A stop may be conducted only when a police officer has an individualized reasonable suspicion that the person stopped has committed, is committing, or is about to commit a felony or penal law misdemeanor. A frisk is authorized when the member of service reasonably suspects the person is armed and dangerous. The frisk can only be conducted to feel for a deadly weapon. Where the frisk reveals an object that the member of service reasonably suspects may be a weapon, the member of service may search only those interior portions of the stopped person’s clothing to remove the weapon.

Administrative Guide 304-11 (BR 14) states that when an officer conducts a level three stop, which does not result in an arrest being made or summons being issued, then the officer must offer a business card to the person in a professional manner upon the conclusion of the law enforcement activity.

Patrol Guide Procedure 203-09 (BR 15) states that officers are required to state their name and shield number courteously and clearly to anyone who requests it.

PO Avellino, Det. Mcknight, and Det. Rivera all stated that they did not remember this incident. However, based on the vehicle utilization log, and the AVL history for the pickup truck,

the investigation was able to determine that the officers were at the exact incident location, within three minutes of the time that § 87(2)(b) and § 87(2)(b) alleged.

§ 87(2)(b) and § 87(2)(b) both provided extremely detailed statements that included the accurate location, time of incident, vehicle type, vehicle color, license plate number, and number of officers involved. § 87(2)(b) and § 87(2)(b) physical descriptions of the officers were generally consistent with PO Avellino's, Det. Mcknight's, and Det. Rivera's pedigree information. Their alleged ethnicities are generally consistent with NYPD documentation, Det. Mcknight and Det. Rivera have arm tattoos, and the officers were all in uniform with bullet proof vests. Additionally, the officers were at the incident location for two minutes, and § 87(2)(b) and § 87(2)(b) account of the incident was consistent with what a two-minute interaction would involve.

§ 87(2)(b) alleged that the shortest officer frisked and searched § 87(2)(b). Thus, because Det. Rivera was the shortest officer out of the three, the frisk and search is being pled against him. Although there is no corroborating evidence supporting § 87(2)(b) and § 87(2)(b) statements, the investigation credits their testimony due to the accuracy and consistency of the details they provided. § 87(2)(g)

§ 87(2)(g) the officers could not remember this incident and could not provide a reason for stopping, frisking, or searching § 87(2)(b) § 87(2)(g)

As mentioned above, the officers refused to provide their names and shield numbers to § 87(2)(b) upon her request as required by Patrol Guide Procedure 203-09. § 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) (BR 20) and § 87(2)(b) (BR 21) have been a party.
- Police Officer John Avellino has been a member of service for eight years and has been a subject in eight other CCRB complaints and 15 allegations, none of which were substantiated.
§ 87(2)(g)
- Detective Richard Mcknight has been a member of service for ten years and has been a subject in six other CCRB complaints and 13 allegations, of which four were substantiated:
 - 202005973 involved substantiated allegations of a stop, frisk, and failure to provide RTKA card against Det. Mcknight. The Board recommended command discipline and the NYPD imposed no penalty.
 - 201506961 involved a substantiated allegations of a vehicle search against Det. Mcknight. The Board recommended formalized training and the NYPD imposed formalized training.
 - § 87(2)(g)
- Sergeant Edmundo Rivera has been a member of service for ten years and has been a subject in 15 other CCRB complaints and 61 allegations, of which ten were substantiated:
 - 202005973 involved substantiated allegations of a stop, frisk, and failure to provide RTKA card against Sgt. Rivera. The Board recommended command discipline and the NYPD imposed no penalty.
 - 201607995 involved three substantiated allegations of vehicle stops and three substantiated allegations of vehicle searches against Sgt. Rivera. The board recommended formalized training and the NYPD imposed formalized training.
 - 201605007 involved a substantiated allegation of a stop against Sgt. Rivera. The board recommended command discipline and the NYPD imposed formalized training.
 - § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of September 20, 2023, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this incident (BR 22).

§ 87(2)(b) [§ 86(1)(3)&(4)] [§ 87(2)(c)]

RPBP History

- This complaint did not contain any allegations of Racial Profiling/Bias-Based Policing.
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Squad No.: 17

Investigator:	<u>SI Tsigel</u>	<u>SI Edward Tsigel</u>	<u>10/13/23</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Benjamin Shelton</u>	<u>AIM Benjamin Shelton</u>	<u>10/13/23</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date